

**Introduced by Senator Yee**

February 15, 2008

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An act to amend Sections 223, 224.72, 1712.1, and 1766 of the Welfare and Institutions Code, relating to juveniles.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1250, as introduced, Yee. Juveniles: communications.

(1) Existing law requires the public officer responsible for the well-being of any minor in the custody of the state or the county to notify the parents or guardians of that minor, if they can reasonably be located, within 24 hours of any serious injury or serious offense committed against the minor, upon reasonable substantiation that a serious injury or offense has occurred. This requirement does not apply if the minor requests that his or her parents or guardians not be informed and the chief probation officer or the Chief Deputy Secretary for Juvenile Justice determines that would be in the best interest of the minor.

This bill would expand that provision to require the public officer responsible for the well-being of any person in the custody of the Division of Juvenile Facilities or the county juvenile probation department to notify the parents or guardians of that person, if they can reasonably be located, within 24 hours of any suicide attempt by the person or any serious injury or serious offense committed against the person. The bill would authorize the person to designate other persons who should be notified in case of an emergency in addition to, or in lieu of, parents or guardians. This requirement would not apply if a minor in custody requests that his or her parents, guardians, or other persons not be notified and the chief probation officer or the director of the division facility determines that would be in the best interest of

the minor, or an adult in custody does not consent to the notification. The bill would require an appropriate staff person, on specified occasions, to explain to a person in custody his or her rights pursuant to these provisions. The bill would require the division or county department to provide the person with forms and any information necessary to provide informed consent as to who shall be notified in case of an emergency, and would require staff to enter specified information in this regard into the ward's record. By increasing the duties of the county juvenile probation department, the bill would impose a state-mandated local program.

(2) Existing law requires each facility of the Division of Juvenile Facilities to post a listing of the statutory rights of youth confined in division facilities in a conspicuous location. The Office of the Ombudspersons of the Division of Juvenile Facilities is required to design posters and provide the posters to each division facility.

This bill would require the division, on or before July 1, 2010, to ensure the listing of rights and posters described above are translated into Spanish and other languages as needed for the members of any linguistic group that represents at least 1% of the division's ward population. The bill also would require copies of the listing of rights to be made available to parents and guardians of wards, upon request, and in visiting areas, and to be included in orientation packets provided to parents and guardians.

(3) Existing law provides that a ward confined in a division facility shall be allowed a minimum of 4 telephone calls to his or her family per month, but authorizes the restriction of telephone usage when calls conflict with institutional operations, supervision, or security, to the extent reasonably necessary for the continued operation and security of the facility.

This bill would provide that those 4 telephone calls shall be provided at no cost to the ward or his or her family. The bill would authorize a ward, when speaking by telephone with a family member, clergy, or counsel, to use his or her native language or the native language of the person to whom he or she is speaking. The bill also would require the division to encourage correspondence with family or clergy by providing blank paper, envelopes, pencils or pens, and postage, as specified, and to offer free shuttle transportation for families and other visitors not less than twice per month.

(4) Existing law requires the division, not less than 60 days prior to the scheduled parole consideration hearing of a ward eligible for release

on parole on or after September 1, 2007, as specified, to provide to the probation department and the court of the committing county, and the ward's counsel, if known, the ward's most recent written case review, along with notice of the parole consideration hearing date.

This bill would require the division, not less than 60 days prior to the ward's scheduled parole consideration hearing, to also notify the ward's parent, guardian, or other persons designated by the ward, if known, of the date and location of the parole consideration hearing, except as specified. The bill would require an appropriate staff person, on specified occasions, to explain to a person in custody his or her rights pursuant to these provisions, and to provide forms and any information necessary to implement those rights.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 223 of the Welfare and Institutions Code  
2 is amended to read:  
3 223. (a) (1) The parents or guardians of any ~~minor~~ *person* in  
4 the custody of the ~~state~~ *Division of Juvenile Facilities* or the county  
5 *juvenile probation department*, if they can reasonably be located,  
6 shall be notified within 24 hours by the public officer responsible  
7 for the well-being of that ~~minor~~ *person*, of any *suicide attempt by*  
8 *the person or any serious injury or serious offense committed*  
9 *against the minor, upon reasonable substantiation that a serious*  
10 *injury or offense has occurred the person. A person in that custody*  
11 *may designate other persons who should be notified in case of an*  
12 *emergency in addition to, or in lieu of, parents or guardians.*  
13 (2) This section shall not apply if ~~the~~ *either of the following*  
14 *conditions is met:*  
15 (A) A minor requests that his or her parents ~~or~~, guardians, *or*  
16 *other persons not be informed notified*, and the chief probation

1 officer or the ~~Director of the Youth Authority~~ director of the  
2 division facility, as appropriate, determines it would be in the best  
3 interest of the minor not to ~~inform~~ notify the parents or, guardians,  
4 or other persons.

5 (B) A person 18 years of age or older does not consent to the  
6 notification.

7 (b) Upon intake of a person into a division facility or into the  
8 custody of the county juvenile probation department, and again  
9 upon attaining 18 years of age while in the custody of the division  
10 or county department, an appropriate staff person shall explain,  
11 using language clearly understandable to the person, all of the  
12 provisions of this section, including that the person has the right  
13 to (1) request that the information described in paragraph (1) of  
14 subdivision (a) not be provided to a parent or guardian, and (2)  
15 designate another person or persons in addition to, or in lieu of,  
16 a parent or guardian to be notified in case of an emergency. The  
17 division or county department shall provide the person with forms  
18 and any information necessary to provide informed consent as to  
19 who shall be notified in case of an emergency. Any designation  
20 made pursuant to paragraph (1) of subdivision (a), the consent to  
21 notify parents, guardians, or other persons, and the withholding  
22 of that consent, may be amended or revoked by the person, and  
23 shall be transferable among facilities.

24 (c) Staff of the division or county department shall enter the  
25 following information into the ward's record, as appropriate, upon  
26 its occurrence:

27 (1) A minor's request that his or her parents, guardians, or  
28 other persons not be notified of an emergency pursuant to this  
29 section, and the determination of the relevant public officer on  
30 that request.

31 (2) The designation of a person to be notified of an emergency  
32 pursuant to this section.

33 (3) The revocation or amendment of a designation or consent  
34 made pursuant to this section.

35 (4) A person's consent, or withholding thereof, to notify parents,  
36 guardians, or other persons pursuant to this section.

37 ~~(b)~~

38 (d) For purposes of this section, "serious offense" means any  
39 offense that is chargeable as a felony and that involves violence  
40 against another person. "Serious injury" means, for purposes of

1 this section, any illness or injury that requires hospitalization, is  
2 potentially life threatening, or that potentially will permanently  
3 impair the use of a major body organ, appendage, or limb.

4 SEC. 2. Section 224.72 of the Welfare and Institutions Code  
5 is amended to read:

6 224.72. (a) Every facility of the Division of Juvenile Facilities  
7 shall provide each youth who is placed in the facility with an age  
8 and developmentally appropriate orientation that includes an  
9 explanation and a copy of the rights of the youth, as specified in  
10 Section 224.71, and that addresses the youth's questions and  
11 concerns.

12 (b) Each facility of the Division of Juvenile Facilities shall post  
13 a listing of the rights provided by Section 224.71 in a conspicuous  
14 location. The Office of the Ombudspersons of the Division of  
15 Juvenile Facilities shall design posters and provide the posters to  
16 each Division of Juvenile Facilities facility subject to this  
17 subdivision. These posters shall include the toll-free telephone  
18 number of the Office of the Ombudspersons of the Division of  
19 Juvenile Facilities.

20 (c) *Consistent with Chapter 17.5 (commencing with Section*  
21 *7290) of Division 7 of Title 1 of the Government Code, on or before*  
22 *July 1, 2010, the division shall ensure the listing of rights and*  
23 *posters described in this section are translated into Spanish and*  
24 *other languages as needed for the members of any linguistic group*  
25 *that represents at least 1 percent of the division's ward population.*

26 (d) *Copies of the listing of rights shall be made available to*  
27 *parents and guardians of wards, upon request, and in visiting*  
28 *areas, and shall be included in orientation packets provided to*  
29 *parents and guardians.*

30 SEC. 3. Section 1712.1 of the Welfare and Institutions Code  
31 is amended to read:

32 1712.1. (a) A ward confined in a facility of the Department  
33 of Corrections and Rehabilitation, Division of Juvenile Facilities,  
34 shall be encouraged to communicate with family members, clergy,  
35 and others, and to participate in programs that will facilitate his  
36 or her education, rehabilitation, and accountability to victims, and  
37 that may help the ward become a law-abiding and productive  
38 member of society. If the division or a facility requires a ward to  
39 provide a list of allowed visitors, calls, or correspondents, that list  
40 shall be transferable from facility to facility, so that the transfer

1 of the ward does not unduly interrupt family and community  
2 communication.

3 (b) A ward shall be allowed a minimum of four telephone calls  
4 to his or her family per month *at no cost to the ward or family*. A  
5 restriction or reduction of the minimum amount of telephone calls  
6 allowed to a ward shall not be imposed as a disciplinary measure.  
7 If calls conflict with institutional operations, supervision, or  
8 security, telephone usage may be restricted to the extent reasonably  
9 necessary for the continued operation and security of the facility.  
10 *When speaking by telephone with a family member, clergy, or*  
11 *counsel, a ward may use his or her native language or the native*  
12 *language of the person to whom he or she is speaking.*

13 (c) (1) If a ward's visitation rights are suspended, division or  
14 facility staff shall be prepared to inform one or more persons on  
15 the list of those persons allowed to visit the ward, if any of those  
16 persons should call to ask.

17 (2) The division or facility shall maintain a toll-free telephone  
18 number that families and others may call to confirm visiting times,  
19 and to provide timely updates on interruptions and rescheduling  
20 of visiting days, times, and conditions.

21 (3) (A) *The division shall encourage correspondence with family*  
22 *or clergy by providing blank paper, envelopes, pencils or pens,*  
23 *and postage. Materials shall be provided in a manner that protects*  
24 *institutional and public safety, and correspondence shall be subject*  
25 *to review by staff only to the extent necessary to protect*  
26 *institutional or public safety.*

27 (B) *When corresponding with a family member, clergy, or*  
28 *counsel in writing, the ward may use the native language of the*  
29 *person to whom he or she is writing.*

30 (C) *Blank paper, correspondence, envelopes, and pencils or*  
31 *pens, shall not be deemed contraband nor seized except in an*  
32 *emergency that threatens bodily harm, injury, or death to the ward*  
33 *or other persons. If staff asserts that there is an emergency that*  
34 *necessitates seizure of materials normally used for correspondence,*  
35 *the reasons for the seizure shall be entered in writing in the ward's*  
36 *file or records.*

37 (4) *Not less than twice per month, each facility shall offer free*  
38 *shuttle transportation for families and other visitors, just prior to*  
39 *and during visiting hours, from the nearest bus and train stations*

1 *in order that families have maximum opportunity to visit wards*  
2 *and to participate in their rehabilitation.*

3 SEC. 4. Section 1766 of the Welfare and Institutions Code is  
4 amended to read:

5 1766. (a) Subject to Sections 733 and 1767.35, and subdivision  
6 (b) of this section, if a person has been committed to the  
7 Department of Corrections and Rehabilitation, Division of Juvenile  
8 Facilities, the Board of Parole Hearings, according to standardized  
9 review and appeal procedures established by the board in policy  
10 and regulation and subject to the powers and duties enumerated  
11 in subdivision (a) of Section 1719, may do any of the following:

12 (1) Permit the ward his or her liberty under supervision and  
13 upon conditions it believes are best designed for the protection of  
14 the public.

15 (2) Order his or her confinement under conditions it believes  
16 best designed for the protection of the public pursuant to the  
17 purposes set forth in Section 1700, except that a person committed  
18 to the division pursuant to Sections 731 or 1731.5 may not be held  
19 in physical confinement for a total period of time in excess of the  
20 maximum periods of time set forth in Section 731. Nothing in this  
21 subdivision limits the power of the board to retain the minor or  
22 the young adult on parole status for the period permitted by  
23 Sections 1769, 1770, and 1771.

24 (3) Order recommitment or renewed release under supervision  
25 as often as conditions indicate to be desirable.

26 (4) Revoke or modify any parole or disciplinary appeal order.

27 (5) Modify an order of discharge if conditions indicate that such  
28 modification is desirable and when that modification is to the  
29 benefit of the person committed to the division.

30 (6) Discharge him or her from its control when it is satisfied  
31 that discharge is consistent with the protection of the public.

32 (b) The following provisions shall apply to any ward eligible  
33 for release on parole on or after September 1, 2007, who was  
34 committed to the custody of the Division of Juvenile Facilities for  
35 an offense other than one described in subdivision (b) of Section  
36 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal  
37 Code:

38 (1) The county of commitment shall supervise the reentry of  
39 any ward released on parole on or after September 1, 2007, who  
40 was committed to the custody of the division for committing an

1 offense other than those described in subdivision (b) of Section  
2 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal  
3 Code.

4 (2) Not less than 60 days prior to the scheduled parole  
5 consideration hearing of a ward described in this subdivision, the  
6 division shall provide to the probation department and the court  
7 of the committing county, and the ward's counsel, if known, the  
8 most recent written review prepared pursuant to Section 1720,  
9 along with notice of the parole consideration hearing date.

10 (3) (A) *Not less than 60 days prior to the scheduled parole*  
11 *consideration hearing of a ward described in this subdivision, the*  
12 *division shall notify the ward's parent, guardian, or other persons*  
13 *designated by the ward, if known, of the date and location of the*  
14 *parole consideration hearing. This paragraph shall not apply if*  
15 *either of the following conditions is met:*

16 (i) *A minor requests that his or her parents, guardians, or other*  
17 *persons not be notified, and the director of the division facility*  
18 *determines it would be in the best interest of the minor not to notify*  
19 *the parents, guardians, or other persons.*

20 (ii) *A person 18 years of age or older does not consent to the*  
21 *notification.*

22 (B) *Upon intake of a ward into a division facility, and again*  
23 *upon attaining 18 years of age while in the custody of the division,*  
24 *an appropriate staff person shall explain, using language clearly*  
25 *understandable to the ward, that the ward has the right to designate*  
26 *who shall be informed prior to his or her parole consideration*  
27 *hearing. The ward shall be provided with forms and any*  
28 *information necessary to provide informed consent to notify*  
29 *parents, guardians, or other persons of the date and location of a*  
30 *scheduled parole consideration hearing. The ward also shall be*  
31 *advised that he or she has the right to request that this information*  
32 *not be provided. The consent, or withholding thereof, to notify*  
33 *parents, guardians, or other persons may be amended or revoked*  
34 *by the ward, and shall be transferable among facilities.*

35 ~~(3)~~

36 (4) Not less than 30 days prior to the scheduled parole  
37 consideration hearing of a ward described in this subdivision, the  
38 probation department of the committing county may provide the  
39 division with its written plan for the reentry supervision of the  
40 ward. At the parole consideration hearing, the Board of Parole

Hearings shall, in determining whether the ward is to be released, consider a reentry supervision plan submitted by the county.

~~(4)~~

(5) Any ward described in this subdivision who is granted parole shall be placed on parole jurisdiction for up to 15 court days following his or her release. The board shall notify the probation department and the court of the committing county within 48 hours of a decision to release a ward.

~~(5)~~

(6) Within 15 court days of the release by the division of a ward described in this subdivision, the committing court shall convene a reentry disposition hearing for the ward. The purpose of the hearing shall be for the court to identify those conditions of probation that are appropriate under all the circumstances of the case. The court shall, to the extent it deems appropriate, incorporate a reentry plan submitted by the county probation department and reviewed by the board into its disposition order. At the hearing the ward shall be fully informed of the terms and conditions of any order entered by the court, including the consequences for any violation thereof. The procedure of the reentry disposition hearing shall otherwise be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

~~(6)~~

(7) The division shall have no further jurisdiction over a ward described in this subdivision who is released on parole by the board upon the ward's court appearance pursuant to paragraph (5).

(c) Within 60 days of intake, the division shall provide the court and the probation department with a treatment plan for the ward.

(d) A ward shall be entitled to an appearance hearing before a panel of board commissioners for any action that would result in the extension of a parole consideration date pursuant to subdivision (d) of Section 5076.1 of the Penal Code.

(e) The department shall promulgate policies and regulations to implement this section.

(f) Commencing on July 1, 2004, and annually thereafter, for the preceding fiscal year, the department shall collect and make available to the public the following information:

1 (1) The total number of ward case reviews conducted by the  
2 division and the board, categorized by guideline category.

3 (2) The number of parole consideration dates for each category  
4 set at guideline, above guideline, and below guideline.

5 (3) The number of ward case reviews resulting in a change to  
6 a parole consideration date, including the category assigned to the  
7 ward, the amount of time added to or subtracted from the parole  
8 consideration date, and the specific reason for the change.

9 (4) The percentage of wards who have had a parole consideration  
10 date changed to a later date, the percentage of wards who have  
11 had a parole consideration date changed to an earlier date, and the  
12 average annual time added or subtracted per case.

13 (5) The number and percentage of wards who, while confined  
14 or on parole, are charged with a new misdemeanor or felony  
15 criminal offense.

16 (6) Any additional data or information identified by the  
17 department as relevant.

18 (g) As used in subdivision (f), the term “ward case review”  
19 means any review of a ward that changes, maintains, or appreciably  
20 affects the programs, treatment, or placement of a ward.

21 SEC. 5. If the Commission on State Mandates determines that  
22 this act contains costs mandated by the state, reimbursement to  
23 local agencies and school districts for those costs shall be made  
24 pursuant to Part 7 (commencing with Section 17500) of Division  
25 4 of Title 2 of the Government Code.